

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 14-0829.02 Jennifer Berman x3286

HOUSE BILL 14-1332

HOUSE SPONSORSHIP

Fischer, Humphrey, Saine, Young

SENATE SPONSORSHIP

Hodge,

House Committees

Agriculture, Livestock, & Natural Resources

Senate Committees

A BILL FOR AN ACT

101 CONCERNING WATER MANAGEMENT IN THE SOUTH PLATTE RIVER
102 BASIN.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

In 2012, the Colorado water conservation board (board), in consultation with the state engineer and the Colorado water institute, conducted a study of historical hydrologic data and water administration in the South Platte river basin.

Section 1 of the bill implements recommendations set forth in the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

final report on the study through:

- ! Implementation of a study of the movement of water in the South Platte alluvial aquifer;
- ! Investigation into:
 - ! A reduction in the use of the administrative call on the South Platte river;
 - ! Use of upstream, out-of-priority water storage;
 - ! The development of aquifer management zones; and
 - ! The feasibility of creating a basin-wide management entity and basin-wide management protocols;
- ! Coordination of the installation of a real-time monitoring well network;
- ! Production of detailed hydrogeological maps of the alluvial aquifer by funding and implementing a helicopter electromagnetic and magnetic survey;
- ! Oversight of the ongoing development and implementation of the South Platte decision support system;
- ! Development of plans for multiple benefit storage options; and
- ! Implementation of a South Platte aquifer management plan pilot program to test management strategies intended to mitigate damaging high groundwater levels.

To further implement the recommendations set forth in the final report:

- ! **Section 2** requires the state engineer and division engineer to review a water rights application or change in use application that requests approval of an alluvial aquifer recharge facility to determine the viability of the proposed location of the recharge facility and the likelihood that the proposed recharge activity will contribute to or create damaging high groundwater levels; and
- ! **Section 3** requires the state engineer to promulgate rules for water division 1 to establish a framework for the voluntary movement of excess water supplies available for augmentation plan users and establish uniform and transparent reporting standards for augmentation plan accounting practices.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 37-60-115, **add** (9)

3 and (10) as follows:

4 **37-60-115. Water studies - rules - repeal. (9) South Platte**

1 **river alluvial aquifer study - additional study authorized - definitions.**

2 (a) THE BOARD SHALL, IN CONSULTATION WITH THE STATE ENGINEER AND
3 THE INSTITUTE, CONDUCT A COMPREHENSIVE STUDY BUILDING UPON THE
4 CONCLUSIONS AND RECOMMENDATIONS OF THE STUDY COMPLETED IN
5 ACCORDANCE WITH SUBSECTION (7) OF THIS SECTION FOR THE PURPOSE OF
6 IMPLEMENTING THE RECOMMENDATIONS SET FORTH IN THE HB 12-1278
7 STUDY.

8 (b) AS USED IN THIS SUBSECTION (9), "HB 12-1278 STUDY" MEANS
9 THE REPORT ENTITLED "HB 1278 STUDY OF THE SOUTH PLATTE RIVER
10 ALLUVIAL AQUIFER", AS PREPARED BY THE INSTITUTE AND DATED
11 DECEMBER 31, 2013.

12 (c) IN CONDUCTING THE STUDY, THE BOARD, IN CONSULTATION
13 WITH THE INSTITUTE, SHALL:

14 (I) FURTHER STUDY THE MOVEMENT OF WATER IN THE ALLUVIAL
15 AQUIFER, OR PORTIONS OF THE ALLUVIAL AQUIFER, AND THE TIME,
16 LOCATION, AND AMOUNT OF ANY CONTRIBUTIONS THAT THE ALLUVIAL
17 AQUIFER MAKES TO SURFACE FLOWS. TO EXAMINE THE ALLUVIAL
18 AQUIFER'S CONTRIBUTIONS TO SURFACE FLOWS, THE BOARD AND
19 INSTITUTE SHALL:

20 (A) ESTABLISH A RELATIONSHIP BETWEEN ALLUVIAL AQUIFER
21 LEVELS AND STREAM GAIN AND PERFORM A STUDY OF HISTORICAL DATA
22 AVAILABLE REGARDING ALLUVIAL AQUIFER LEVELS AND STREAM GAIN IN
23 WATER DISTRICTS 1, 2, AND 64;

24 (B) PERFORM A FIELD STUDY, INCLUDING THE MONITORING AND
25 MEASURING OF AQUIFER LEVELS AND CHANGES IN RIVER GAIN IN RELATION
26 TO AQUIFER WITHDRAWALS IN WATER DISTRICTS 1, 2, AND 64. THE BOARD
27 SHALL, INSOFAR AS PRACTICABLE, MAKE EFFORTS TO ISOLATE THE ACTUAL

1 IMPACT OF WELL PUMPING ON THE ALLUVIAL AQUIFER AND IDENTIFY
2 MECHANISMS TO INCREASE THE ACCURACY AND EFFICIENCY OF
3 AUGMENTATION PLANS, WHILE ENSURING THAT EXISTING WATER RIGHTS
4 HOLDERS OBTAIN AN ADEQUATE WATER SUPPLY AT THE TIME AND PLACE
5 THAT THE WATER RIGHTS HOLDERS NEED.

6 (C) IN COORDINATION WITH ONGOING EFFORTS FOR THE SOUTH
7 PLATTE DECISION SUPPORT SYSTEM TO DEVELOP GROUNDWATER
8 MODELING, DEVELOP CALIBRATED NUMERICAL GROUNDWATER MODELS TO
9 TEST AGAINST ANALYTICAL METHODS THAT HAVE BEEN HISTORICALLY
10 APPLIED TO WELLS IN THE IDENTIFIED STUDY AREAS, WITH PARTICULAR
11 FOCUS PLACED ON AREAS IDENTIFIED IN THE HB12-1278 STUDY AS
12 EXPERIENCING DAMAGING HIGH GROUNDWATER LEVELS IN GILCREST,
13 COLORADO, AND LASALLE, COLORADO, OR STERLING, COLORADO.

14 (II) DEVELOP ADDITIONAL INFORMATION TO SUPPORT A POTENTIAL
15 RULE-MAKING PROCESS REGARDING ADMINISTRATION OF THE CALL ON THE
16 SOUTH PLATTE RIVER, INCLUDING:

17 (A) AN INVESTIGATION OF THE POTENTIAL FOR INCREASED
18 EFFICIENCY THROUGH ACTIVE MANAGEMENT OF THE RESERVOIR FILL
19 SEASON BY USING UPSTREAM, OUT-OF-PRIORITY STORAGE AND REDUCED
20 USE OF THE ADMINISTRATIVE CALL BASED ON AVAILABLE AND PROJECTED
21 WATER SUPPLIES. TO ACCOMPLISH THE INVESTIGATION, THE INSTITUTE
22 SHALL REVIEW HISTORICAL DIVERSION DATA FOR REPRESENTATIVE WET,
23 AVERAGE, AND DRY YEARS AND SHALL COMPARE THE DATA WITH
24 HYPOTHETICAL ACTIVE MANAGEMENT SCENARIOS TO DETERMINE IF
25 ADDITIONAL EFFICIENCIES COULD HAVE BEEN ACHIEVED IN THOSE
26 REPRESENTATIVE YEARS. A HYPOTHETICAL ACTIVE MANAGEMENT
27 SCENARIO MUST ENSURE THE DELIVERY OF AVAILABLE WATER SUPPLIES TO

1 WATER USERS IN PRIORITY, WITHOUT CAUSING INJURY TO EXISTING
2 DECREED WATER RIGHTS.

3 (B) THE DEVELOPMENT OF RECOMMENDATIONS FOR AQUIFER
4 MANAGEMENT ZONES AND OPTIMUM ALLUVIAL AQUIFER LEVELS OR
5 RANGES OF ALLUVIAL AQUIFER LEVELS WITHIN EACH ZONE. FOR PURPOSES
6 OF THE STUDY, AN "OPTIMUM ALLUVIAL AQUIFER LEVEL OR RANGE"
7 MEANS THE LEVEL OR RANGE WITHIN WHICH THE ALLUVIAL AQUIFER HAS
8 ACHIEVED ITS MAXIMUM PRACTICAL ACCRETIVE EFFECT ON SURFACE
9 FLOWS IN THE SURFACE STREAMS AFFECTED BY WELL PUMPING.

10 (C) THE IDENTIFICATION OF ADDITIONAL INFRASTRUCTURE
11 NEEDED TO FACILITATE INCREASED MANAGEMENT;

12 (D) THE DEVELOPMENT OF PROPOSED ADMINISTRATIVE
13 PROTOCOLS FOR THE OPERATION OF ADMINISTRATIVE CALLS RELATED TO
14 AUGMENTATION PLANS IN THE RECOMMENDED AQUIFER MANAGEMENT
15 ZONES DEVELOPED UNDER SUB-SUBPARAGRAPH (B) OF THIS
16 SUBPARAGRAPH (II); AND

17 (E) IN COOPERATION WITH THE STATE ENGINEER, THE DIVISION
18 ENGINEER, AND WATER USERS WITHIN THE SOUTH PLATTE RIVER BASIN,
19 THE DEVELOPMENT OF RECOMMENDED ADMINISTRATIVE PROTOCOLS
20 NECESSARY TO EFFECTUATE THE ADMINISTRATIVE MECHANISMS
21 DESCRIBED IN THIS SUBPARAGRAPH (II). THE INSTITUTE SHALL INCLUDE
22 THE RECOMMENDED ADMINISTRATIVE PROTOCOLS IN THE INSTITUTE'S
23 INTERIM REPORT TO THE COLORADO GENERAL ASSEMBLY, AS REQUIRED BY
24 PARAGRAPH (g) OF THIS SUBSECTION (9).

25 (III) PERFORM FURTHER INVESTIGATION INTO THE FEASIBILITY OF
26 CREATING A BASIN-WIDE MANAGEMENT ENTITY, AS RECOMMENDED IN THE
27 HB12-1278 STUDY, INCLUDING:

1 (A) THE DEVELOPMENT OF A RECOMMENDED GOVERNANCE
2 STRUCTURE, INCLUDING THE COMPOSITION OF ANY BOARD THAT WOULD
3 OVERSEE THE ENTITY;

4 (B) THE DEVELOPMENT OF AN OUTLINE OF THE POWERS AND
5 RESPONSIBILITIES OF THE ENTITY AND ANY BOARD OVERSEEING THE
6 ENTITY; AND

7 (C) THE DEVELOPMENT OF A PLAN FOR FUNDING THE ENTITY,
8 INCLUDING AN INVESTIGATION OF POTENTIAL WATER USER FEES AND MILL
9 LEVIES AND THE DEVELOPMENT OF PROJECTED BUDGETS FOR THE ENTITY'S
10 OPERATIONS;

11 (IV) INVESTIGATE THE VIABILITY OF BASIN-WIDE MANAGEMENT
12 PRINCIPLES AND PROCESSES BY:

13 (A) INCOORDINATION WITH WATER USERS, DEFINING SUSTAINABLE
14 YIELD AS A MANAGEMENT TERM OR PRINCIPLE, AS APPLIED TO THE SOUTH
15 PLATTE RIVER BASIN;

16 (B) DEVELOPING AN ESTIMATED SUSTAINABLE YIELD FOR THE
17 SOUTH PLATTE RIVER BASIN ON A LONG-TERM BASIS AND FOR EACH YEAR
18 OF THE STUDY;

19 (C) DEVELOPING A PROPOSED PLAN TO MAXIMIZE DELIVERY OF
20 THE SUSTAINABLE YIELD BY PRIORITY FOR EACH YEAR OF THE STUDY,
21 USING SURFACE AND GROUNDWATER WITHDRAWALS;

22 (D) SIMULATING THE OPERATION OF THE PLANNED DELIVERY
23 SYSTEM DESCRIBED IN SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH
24 (IV) AND COMPARING IT TO THE ACTUAL CONDITIONS IN THE SOUTH
25 PLATTE RIVER BASIN FOR EACH YEAR OF THE STUDY;

26 (E) DEVELOPING A COMPREHENSIVE PLAN FOR BASIN-WIDE WATER
27 BANKING, TRADING OF SURFACE WATER SUPPLIES, AND GROUNDWATER

1 AUGMENTATION PLAN CREDITS;

2 (F) MAXIMIZING THE UTILIZATION OF SUSTAINABLE YIELD AND
3 IDENTIFYING AND PRIORITIZING ANY ADDITIONAL INFRASTRUCTURE
4 NEEDED TO MONITOR AND MANAGE WATER SUPPLIES WITHIN THE BASIN;

5 (G) IDENTIFYING KEY ENVIRONMENTAL AND CONSERVATION
6 GOALS WITHIN THE BASIN AND THE WATER SUPPLIES NECESSARY TO
7 ACHIEVE THOSE GOALS; AND

8 (H) COORDINATING AND FACILITATING COMMUNICATION AMONG
9 WATER USERS IN THE BASIN, WITH PARTICULAR EMPHASIS ON THE USE OF
10 TECHNOLOGY TO FACILITATE THE DISCUSSION AND DISSEMINATION OF
11 INFORMATION IN A TIMELY AND EFFECTIVE MANNER.

12 (V) IN INVESTIGATING THE VIABILITY OF BASIN-WIDE
13 MANAGEMENT PRINCIPLES AND PROCESSES IN ACCORDANCE WITH
14 SUBPARAGRAPH (IV) OF THIS PARAGRAPH (c) AND IN THE CONTEXT OF A
15 SUSTAINABLE YIELD ANALYSIS AND THE PROPOSED PLANS TO MAXIMIZE
16 WATER DELIVERY, IDENTIFY AND INVESTIGATE METHODS FOR INCREASING
17 CONJUNCTIVE USE AND MAXIMIZING USE OF THE ALLUVIAL AQUIFER ON A
18 REGIONAL, COORDINATED BASIS WHILE MAINTAINING DELIVERIES TO
19 WATER USERS WITH DECREED WATER RIGHTS IN PRIORITY, INCLUDING:

20 (A) THE COORDINATION OF PLANNED WITHDRAWALS FROM THE
21 ALLUVIAL AQUIFER DURING DROUGHT CONDITIONS, WHILE REPLACING
22 DEPLETIONS IN TIMES OF EXCESS WATER SUPPLY, WITHOUT CAUSING
23 INJURY TO VESTED WATER RIGHTS;

24 (B) AS PART OF A PLAN TO DISTRIBUTE SUSTAINABLE YIELD, THE
25 ESTABLISHMENT OF GROUNDWATER POINTS OF DIVERSION FOR SURFACE
26 WATER RIGHTS, TO BE USED TO SUPPLEMENT WATER AVAILABLE FROM
27 SURFACE FLOWS;

1 (C) THE INSTALLATION OF A WELL FIELD OR FIELDS IN DISTRICT 1
2 OR 64 TO DELIVER EXCESS RECHARGE ACCRETIONS TO STORAGE
3 RESERVOIR INLETS; AND

4 (D) THROUGH PLANNED REDUCTIONS IN ALLUVIAL AQUIFER
5 LEVELS OR THE REMOVAL OF NONNATIVE AND EXCESS PHREATOPHYTE
6 GROWTH, THE REDUCTION OF WATER LOST TO EVAPORATION AND
7 NONBENEFICIAL EVAPOTRANSPIRATION FROM PHREATOPHYTES;

8 (VI) COORDINATE WITH THE STATE ENGINEER, THE DIVISION
9 ENGINEER, THE DIVISION OF WATER RESOURCES, OTHER INTERESTED
10 AGENCIES, AND INTERESTED WATER USERS TO IMPLEMENT THE FOLLOWING
11 TECHNICAL RECOMMENDATIONS SET FORTH IN THE HB12-1278 STUDY:

12 (A) COORDINATE WITH THE COLORADO DEPARTMENT OF
13 AGRICULTURE, THE DIVISION OF WATER RESOURCES, AND INTERESTED
14 WATER USERS TO INITIATE AND OVERSEE THE INSTALLATION OF A
15 REAL-TIME MONITORING WELL NETWORK, AS DESCRIBED IN
16 RECOMMENDATION 3B OF THE HB12-1278 STUDY;

17 (B) IN COORDINATION WITH THE CENTRAL COLORADO WATER
18 CONSERVANCY DISTRICT, IMPLEMENT A HELICOPTER ELECTROMAGNETIC
19 AND MAGNETIC SURVEY OF GILCREST, COLORADO, AND LASALLE,
20 COLORADO, AND THE SURROUNDING AREAS, AND COORDINATE WITH THE
21 SOUTH PLATTE BASIN ROUNDTABLE AND WATER ORGANIZATIONS WITHIN
22 THE BASIN TO ASSESS THE FEASIBILITY OF PERFORMING ADDITIONAL
23 SURVEYS IN OTHER REGIONS OF THE SOUTH PLATTE RIVER BASIN TO
24 PRODUCE DETAILED HYDROGEOLOGICAL MAPS OF THE SOUTH PLATTE
25 ALLUVIAL AQUIFER, AS DESCRIBED IN RECOMMENDATION 3C OF THE
26 HB12-1278 STUDY;

27 (C) WITH THE GOAL OF IMPROVING THE SOUTH PLATTE DECISION

1 SUPPORT SYSTEM'S ACCESSIBILITY AND SCOPE AND DEVELOPING A ROBUST
2 STAKEHOLDER PROCESS, SUPPORT THE ONGOING DEVELOPMENT AND
3 IMPLEMENTATION OF THE SUPPORT SYSTEM, AS DESCRIBED IN
4 RECOMMENDATION 3D OF THE HB12-1278 STUDY;

5 (D) WORK WITH WATER USERS AND OTHER STAKEHOLDERS IN THE
6 SOUTH PLATTE RIVER BASIN TO DEVELOP PLANS FOR MULTIPLE BENEFIT
7 STORAGE OPTIONS, INCLUDING THE REHABILITATION OF EXISTING STORAGE
8 AND RECOVERY PROJECTS, AS DESCRIBED IN RECOMMENDATION 3E OF THE
9 HB12-1278 STUDY; AND

10 (E) ENCOURAGE AND FACILITATE THE IMPLEMENTATION OF
11 IMPROVED DATA COLLECTION, MANAGEMENT, AND ACCESS BY THE
12 DIVISION OF WATER RESOURCES AND THE COLORADO WATER
13 CONSERVATION BOARD, AS DESCRIBED IN RECOMMENDATION 4 OF THE
14 HB12-1278 STUDY;

15 (VII) IN ALL ASPECTS OF THE STUDY AUTHORIZED IN THIS
16 SUBSECTION (9), ESTABLISH A PUBLIC OUTREACH PROCESS
17 CHARACTERIZED BY ACCESSIBILITY, TRANSPARENCY, AND REGULARLY
18 ORGANIZED OPPORTUNITIES TO DISSEMINATE INFORMATION, HEAR INPUT,
19 AND ENGAGE IN A MEANINGFUL DISCUSSION WITH INTERESTED PARTIES.
20 THE INSTITUTE MAY ESTABLISH AND APPOINT FOCUS GROUPS TO DISCUSS
21 SPECIFIC TOPICS OR SEEK PUBLIC INPUT IN BROADER FORUMS. THE
22 INSTITUTE SHALL STRIVE, WHENEVER POSSIBLE, TO IDENTIFY, ESTABLISH,
23 AND REINFORCE CONSENSUS AMONG WATER USERS REGARDING THE TOPICS
24 UNDER INVESTIGATION.

25 (d) THE BOARD SHALL ENTER INTO A CONTRACT WITH THE
26 INSTITUTE, USING EXISTING PROCUREMENT MECHANISMS AND
27 AGREEMENTS BETWEEN THE BOARD AND THE INSTITUTE, TO CONDUCT,

1 OVERSEE, AND COORDINATE ALL ASPECTS OF THE STUDY. THE BOARD
2 SHALL FUND THE STUDY FROM EXISTING RESEARCH RESOURCES AT LEVELS
3 AGREED TO BETWEEN THE BOARD AND THE INSTITUTE. IN ADDITION, TO
4 IMPLEMENT THE ACTIVITIES OF THE STUDY, THE BOARD SHALL
5 COORDINATE WITH WATER USERS AND WATER ORGANIZATIONS TO
6 IDENTIFY AND SECURE ADDITIONAL FUNDING FROM SOURCES INCLUDING
7 STATE AND FEDERAL GRANTS AND THIRD-PARTY GIFTS, GRANTS, AND
8 DONATIONS.

9 (e) (I) THE INSTITUTE SHALL PERFORM THE STUDY
10 INDEPENDENTLY, UNDER THE DIRECTION OF A STUDY ADVISORY BOARD,
11 CREATED IN THIS PARAGRAPH (e) AND REFERRED TO IN THIS SUBSECTION
12 (9) AS THE "ADVISORY BOARD". THE ADVISORY BOARD CONSISTS OF ONE
13 REPRESENTATIVE APPOINTED BY EACH OF THE FOLLOWING ENTITIES:

- 14 (A) THE NORTHERN COLORADO WATER CONSERVANCY DISTRICT;
- 15 (B) THE CENTRAL COLORADO WATER CONSERVANCY DISTRICT;
- 16 (C) THE LOWER SOUTH PLATTE WATER CONSERVANCY DISTRICT;
- 17 (D) THE SOUTH PLATTE ROUNDTABLE;
- 18 (E) THE METRO ROUNDTABLE;
- 19 (F) THE BOARD; AND
- 20 (G) THE STATE ENGINEER'S OFFICE.

21 (II) THE INSTITUTE, WITH THE ADVISORY BOARD'S APPROVAL,
22 SHALL APPOINT AN ENGINEERING SUBCOMMITTEE, CONSISTING OF AT
23 LEAST FIVE INDIVIDUALS WITH EXPERIENCE AND QUALIFICATIONS SPECIFIC
24 TO THE SOUTH PLATTE RIVER BASIN, TO ASSIST THE INSTITUTE IN AN
25 ADVISORY CAPACITY WITH TECHNICAL MATTERS.

26 (III) THE INSTITUTE, WITH THE ADVISORY BOARD'S APPROVAL AND
27 WITH THE AGREEMENT OF THE AFFECTED ENTITY, MAY CONTRACT WITH

1 EMPLOYEES OF THE NORTHERN COLORADO WATER CONSERVANCY
2 DISTRICT, THE CENTRAL COLORADO WATER CONSERVANCY DISTRICT, OR
3 THE LOWER SOUTH PLATTE WATER CONSERVANCY DISTRICT TO PERFORM
4 REASONABLE AND NECESSARY TASKS AND ANALYSIS FOR COMPLETION OF
5 THE STUDY'S GOALS.

6 (f) THE BOARD SHALL COMMISSION THE STUDY AS SOON AS
7 PRACTICABLE.

8 (g) (I) NO LATER THAN DECEMBER 31, 2018, THE INSTITUTE SHALL
9 PREPARE A FINAL REPORT, INCLUDING ITS CONCLUSIONS, AND, DURING THE
10 FIRST REGULAR SESSION OF THE SEVENTY-FIRST GENERAL ASSEMBLY IN
11 2019, SHALL PRESENT THE FINAL REPORT TO A JOINT MEETING OF THE
12 COMMITTEE ON AGRICULTURE, NATURAL RESOURCES, AND LIVESTOCK IN
13 THE HOUSE OF REPRESENTATIVES AND THE COMMITTEE ON AGRICULTURE,
14 NATURAL RESOURCES, AND ENERGY IN THE SENATE, OR THEIR SUCCESSOR
15 COMMITTEES.

16 (II) NO LATER THAN NOVEMBER 30, 2015, THE INSTITUTE SHALL
17 PREPARE RECOMMENDATIONS REGARDING RULE-MAKING TO INCREASE
18 ADMINISTRATIVE EFFICIENCY, AS DESCRIBED IN SUBPARAGRAPH (II) OF
19 PARAGRAPH (c) OF THIS SUBSECTION (9), AND PRESENT ITS
20 RECOMMENDATIONS TO THE COMMITTEE ON AGRICULTURE, NATURAL
21 RESOURCES, AND LIVESTOCK IN THE HOUSE OF REPRESENTATIVES AND THE
22 COMMITTEE ON AGRICULTURE, NATURAL RESOURCES, AND ENERGY IN THE
23 SENATE, OR THEIR SUCCESSOR COMMITTEES.

24 (III) DURING THE 2015, 2016, AND 2017 SESSIONS OF THE
25 GENERAL ASSEMBLY, THE INSTITUTE SHALL PREPARE AN ANNUAL
26 PROGRESS REPORT AND PRESENT EACH PROGRESS REPORT TO A JOINT
27 MEETING OF THE COMMITTEE ON AGRICULTURE, NATURAL RESOURCES,

1 AND LIVESTOCK IN THE HOUSE OF REPRESENTATIVES AND THE COMMITTEE
2 ON AGRICULTURE, NATURAL RESOURCES, AND ENERGY IN THE SENATE, OR
3 THEIR SUCCESSOR COMMITTEES.

4 (10) **South Platte aquifer management plan pilot program -**
5 **repeal.** (a) AFTER NOTICE AND A THIRTY-DAY COMMENT PERIOD, THE
6 BOARD MAY, IN CONSULTATION WITH THE STATE ENGINEER AND AFTER
7 CONSIDERATION OF ANY COMMENTS SUBMITTED, APPROVE UP TO FIVE
8 PILOT AQUIFER MANAGEMENT PLANS IN THE SOUTH PLATTE RIVER BASIN
9 TO TEST MANAGEMENT STRATEGIES INTENDED TO MITIGATE DAMAGING
10 HIGH GROUNDWATER LEVELS. A PROPOSED AQUIFER MANAGEMENT PLAN
11 SUBMITTED TO THE BOARD FOR APPROVAL MUST:

12 (I) SERVE A GEOGRAPHIC AREA LOCATED IN ONE OF THE HIGH
13 GROUNDWATER STUDY AREAS IN THE VICINITY OF GILCREST, COLORADO,
14 AND LASALLE, COLORADO, OR STERLING, COLORADO, AS DELINEATED BY
15 THE STATE ENGINEER; AND

16 (II) BE CHARACTERIZED BY DAMAGING HIGH GROUNDWATER
17 LEVELS IN EXCESS OF HISTORICAL AVERAGE GROUNDWATER LEVELS, AS
18 DETERMINED BY REFERENCE TO EXISTING HISTORICAL DATA;

19 (III) IDENTIFY ONE OR MORE MONITORING WELLS WITHIN THE HIGH
20 GROUNDWATER STUDY AREAS CAPABLE OF MEASURING AND REPORTING
21 WATER LEVELS IN THE ALLUVIAL AQUIFER;

22 (IV) BE DESIGNED TO REDUCE GROUNDWATER LEVELS WITHIN THE
23 GEOGRAPHIC AREA TO BE SERVED BY THE MANAGEMENT PLAN TO THE
24 EXTENT NECESSARY TO MITIGATE DAMAGING HIGH GROUNDWATER
25 LEVELS, AS REFLECTED IN THE MONITORING WELL NETWORK. THE AQUIFER
26 MANAGEMENT PLAN MAY INCLUDE:

27 (A) PUMPING BY WELLS ALREADY LOCATED WITHIN A HIGH

1 GROUNDWATER STUDY AREA OR TO BE INSTALLED IN A HIGH
2 GROUNDWATER STUDY AREA FOR THE PURPOSE OF DEWATERING. WATER
3 PUMPED FROM THE WELLS SHALL BE RETURNED TO THE SOUTH PLATTE
4 RIVER WITHOUT ANY INTERVENING USE. ONCE IN THE RIVER, THE PUMPED
5 WATER SHALL BE DISTRIBUTED ACCORDING TO THE PRIORITY SYSTEM.
6 PUMPING AUTHORIZED UNDER THIS SUBSECTION (10) DOES NOT CREATE AN
7 OBLIGATION TO REPLACE POST-PUMPING DEPLETIONS.

8 (B) A PLAN TO INSTALL OR IMPROVE DRAINS AND DRAINAGE
9 SYSTEMS.

10 (V) INCLUDE PROOF THAT THE PROPOSED AQUIFER MANAGEMENT
11 PLAN HAS BEEN PROVIDED TO ALL INTERESTED PARTIES SUBSCRIBED TO
12 THE DIVISION 1 SUBSTITUTE WATER SUPPLY PLAN LIST.

13 (b) (I) THE BOARD SHALL PROVIDE A THIRTY-DAY COMMENT
14 PERIOD FOR INTERESTED PARTIES TO PROVIDE COMMENTS ON A PROPOSED
15 AQUIFER MANAGEMENT PLAN.

16 (II) UPON THE CONCLUSION OF THE THIRTY-DAY COMMENT
17 PERIOD, THE BOARD SHALL APPROVE, APPROVE WITH CONDITIONS, OR
18 DENY A PROPOSED AQUIFER MANAGEMENT PLAN. IF THE BOARD APPROVES
19 A PROPOSED AQUIFER MANAGEMENT PLAN, IT SHALL APPROVE IT FOR A
20 PERIOD OF UP TO TWO YEARS. THE BOARD SHALL PROVIDE COPIES OF THE
21 AQUIFER MANAGEMENT PLAN AND THE BOARD'S DECISION APPROVING THE
22 AQUIFER MANAGEMENT PLAN TO ALL INTERESTED PARTIES WHO ARE
23 SUBSCRIBED TO THE DIVISION 1 SUBSTITUTE WATER SUPPLY PLAN LIST. AN
24 APPEAL OF THE AQUIFER MANAGEMENT PLAN OR OPERATIONS UNDER THE
25 PLAN SHALL BE MADE TO THE WATER COURT IN ACCORDANCE WITH THE
26 PROCEDURES SET FORTH IN ARTICLE 4 OF TITLE 24, C.R.S. THERE IS A
27 REBUTTABLE PRESUMPTION THAT WELL PUMPING FOR DEWATERING

1 PURPOSES UNDER AN APPROVED AQUIFER MANAGEMENT PLAN IS NOT
2 INJURIOUS TO VESTED WATER RIGHTS OR DECREED CONDITIONAL WATER
3 RIGHTS.

4 (c) THE BOARD SHALL ESTABLISH A HIGH GROUNDWATER
5 MITIGATION GRANT PROGRAM TO PROVIDE FINANCIAL ASSISTANCE TO
6 PERSONS IMPLEMENTING AQUIFER MANAGEMENT PLANS THAT THE BOARD
7 HAS APPROVED UNDER THIS SUBSECTION (10).

8 (d) ON OR BEFORE NOVEMBER 1 OF EACH YEAR, THE BOARD SHALL
9 REPORT TO THE WATER RESOURCES REVIEW COMMITTEE, CREATED IN
10 SECTION 37-98-102, ON THE PROGRESS OF MITIGATING DAMAGING HIGH
11 GROUNDWATER LEVELS IN THE STUDY AREAS. THE BOARD SHALL GIVE A
12 FINAL REPORT TO THE WATER RESOURCES REVIEW COMMITTEE REGARDING
13 THE EFFECTIVENESS OF HIGH GROUNDWATER MANAGEMENT STRATEGIES
14 ON OR BEFORE NOVEMBER 1, 2019.

15 (e) THIS SUBSECTION (10) IS REPEALED, EFFECTIVE JANUARY 1,
16 2020.

17 **SECTION 2.** In Colorado Revised Statutes, 37-92-302, **amend**
18 (4) as follows:

19 **37-92-302. Applications for water rights or changes of such**
20 **rights - plans for augmentation.** (4) The referee, without conducting a
21 formal hearing, shall make ~~such~~ investigations as ~~are~~ necessary to
22 determine whether or not the statements in the application and statements
23 of opposition are true and to become fully advised with respect to the
24 subject matter of the applications and statements of opposition. The
25 referee shall consult with the appropriate division engineer or the state
26 engineer or both. The engineer consulted shall file a WRITTEN report in
27 ~~writing~~ THE PROCEEDINGS within thirty-five days, unless ~~such~~ THE time

1 is extended by the referee, ~~which original report shall be filed in the~~
2 ~~proceedings~~, and a copy shall be sent by the division engineer to the
3 applicant or the applicant's attorney, who shall then send copies to all
4 parties of record if they have not otherwise been served and so certify
5 before any ruling ~~shall be~~ IS entered or ~~become~~ BECOMES effective. FOR
6 AN APPLICANT REQUESTING APPROVAL OF AN ALLUVIAL AQUIFER
7 RECHARGE FACILITY, THE STATE ENGINEER AND DIVISION ENGINEER SHALL
8 PROVIDE A REPORT AS TO THE VIABILITY OF THE PROPOSED LOCATION OF
9 THE RECHARGE FACILITY AND THE POTENTIAL FOR THE PROPOSED
10 RECHARGE ACTIVITY TO CONTRIBUTE TO, OR CREATE, DAMAGING HIGH
11 GROUNDWATER LEVELS; EXCEPT THAT THE REPORT IS ONLY ADVISORY
12 AND DOES NOT IN ANY WAY OBLIGATE OR GIVE RISE TO ANY LIABILITY ON
13 THE PART OF THE STATE ENGINEER OR DIVISION ENGINEER. A water judge
14 who is acting as a referee in the water judge's division ~~shall have~~ HAS the
15 same authority as provided for the referee in this subsection (4). If the
16 application is rereferred to the water judge by the referee ~~prior to~~ BEFORE
17 consultation, the division engineer shall file a written recommendation in
18 the proceedings within thirty-five days of rereferral, unless ~~such~~ THE time
19 is extended by the court, and shall send a copy ~~thereof~~ OF THE WRITTEN
20 RECOMMENDATION to the applicant or the applicant's attorney, who shall
21 send copies to the other parties, if they have not otherwise been served,
22 before any decree ~~shall be~~ IS entered or ~~become~~ BECOMES effective. The
23 water judge may request ~~such~~ THE written report from the state engineer.
24 ~~if the water judge desires.~~

25 **SECTION 3.** In Colorado Revised Statutes, 37-92-501, **add** (5)
26 as follows:

27 **37-92-501. Jurisdiction over water - rules.** (5) (a) (I) THE

1 STATE ENGINEER SHALL INITIATE RULE-MAKING IN DIVISION 1 TO:

2 (A) ESTABLISH UNIFORM AND TRANSPARENT REPORTING
3 STANDARDS FOR AUGMENTATION PLAN ACCOUNTING PRACTICES THAT ARE
4 DESIGNED FOR INTEGRATION WITH BASIN-WIDE DATA COLLECTION,
5 MODELING, AND MANAGEMENT; AND

6 (B) ESTABLISH A FRAMEWORK FOR THE VOLUNTARY MOVEMENT
7 OF EXCESS WATER SUPPLIES, INCLUDING A POOL OR WATER BANK
8 AVAILABLE FOR USE BY AUGMENTATION PLAN USERS.

9 (II) IN ADDITION TO COMPLYING WITH SUBSECTION (2) OF THIS
10 SECTION, THE STATE ENGINEER, WHEN ADOPTING THE NEW RULES, SHALL
11 CONSIDER THE UNIQUE GEOLOGIC AND HYDROLOGIC CONDITIONS AND THE
12 CONJUNCTIVE USE PRACTICES PREVAILING IN DIVISION 1.

13 (b) IN DEVELOPING RULES CONCERNING THE VOLUNTARY
14 MOVEMENT OF EXCESS WATER SUPPLIES IN ACCORDANCE WITH
15 SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS
16 SUBSECTION (5), THE STATE ENGINEER SHALL DEVELOP AN INTERACTIVE,
17 INTERNET-BASED APPLICATION THAT PROVIDES A PLATFORM FOR:

18 (I) VOLUNTARY REPORTING OF THE TIME, LOCATION, AND AMOUNT
19 OF AN AUGMENTATION PLAN'S EXCESS RECHARGE CREDITS, INCLUDING THE
20 REPORTING OF CREDITS PROJECTED TO BE AVAILABLE IN THE FUTURE;

21 (II) VOLUNTARY REPORTING OF THE TIME, LOCATION, AND
22 AMOUNT OF EXCESS DIRECT FLOW OR STORAGE WATER SUPPLIES
23 AVAILABLE, INCLUDING WATER SUPPLIES PROJECTED TO BE AVAILABLE IN
24 THE FUTURE;

25 (III) A REPORT OF EXCESS WATER SUPPLIES THAT:

26 (A) IS SEARCHABLE BY TIME, LOCATION, AND AMOUNT; AND

27 (B) INCLUDES CONTACT INFORMATION FOR PERSONS MARKETING

1 EXCESS CREDITS;

2 (IV) INTERACTIVE, REAL-TIME INFORMATION REGARDING WATER
3 EXCHANGE POTENTIAL AND DOWNSTREAM DELIVERY PROTOCOLS;

4 (V) AN ON-LINE, PRINTABLE, AND ELECTRONICALLY
5 TRANSFERABLE FORM THAT ALLOWS PARTIES TO EFFECTUATE WATER
6 TRANSFERS WHILE PROVIDING NOTICE TO THE DIVISION ENGINEER AND
7 WATER COMMISSIONERS. THE WATER TRANSFER WOULD BECOME
8 EFFECTIVE UPON THE ACCEPTANCE OF THE FILED FORM. IN A PROCEEDING
9 CONCERNING THE APPROVAL OF AN AUGMENTATION PLAN, THE FORM
10 PROVIDES REBUTTABLE EVIDENCE THAT THE CREDITS OR OTHER WATER
11 RIGHTS DESCRIBED IN THE FORM:

12 (A) HAVE BEEN ASSIGNED AT THE TIMES AND LOCATIONS, AND IN
13 THE AMOUNTS, IDENTIFIED IN THE FORM; AND

14 (B) WILL NOT BE USED BY ANYONE OTHER THAN THE TRANSFEREE.

15 **SECTION 4. Safety clause.** The general assembly hereby finds,
16 determines, and declares that this act is necessary for the immediate
17 preservation of the public peace, health, and safety.